

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION**

CHRISTINA SCHIPPERS,

Plaintiff,

v.

Case No. 5:11-cv-163-Orl-37TBS

UNITED STATES OF AMERICA,

Defendant.

ORDER

This cause is before the Court on the Defendant United States of America's Motion for Stay in Light of Government Cessation (Doc. 122) filed October 1, 2013.

The United States of America, the Defendant in this action, seeks an indefinite stay of these proceedings because the Congress of the United States of America has failed to appropriate funds for the continued operation of its counsel, the Department of Justice. (Doc. 122.) The Congress of the United States is vested with exclusive constitutional authority and responsibility to enact legislation necessary to fund government operations. U.S. CONST. art. I, § 8, cl. 1 ("The Congress shall have Power to . . . pay for the Debts and provide for the common Defense and general Welfare of the United States."); U.S. CONST. art. I, § 9, cl. 7 ("No Money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law . . .").

Plaintiffs filed this wrongful death action by a Complaint filed December 1, 2010 for the alleged wrongful death of Richard Schippers from a plane crash that occurred on October 26, 2009. (Doc. 1.) Plaintiffs have diligently pursued their claim in the Federal Courts of Texas and Florida, prosecuted a successful appeal to the Eleventh Circuit

Court of Appeals, and are now back before me on remand. The problem of funding raised by the United States of America is a problem of its own making. To impose an indefinite stay of these proceedings would effectively leave these Plaintiffs with no ability to obtain a jury trial, which is their constitutional right, unless and until the Congress saw fit to meet its Constitutional obligations to appropriate funds. U.S. CONST. amend. VII ("In Suits at common law . . . the right to trial by jury shall be preserved."). The injustice of that request should be readily apparent.

Accordingly, the Motion is denied.

DONE AND ORDERED in Chambers in Orlando, Florida, on October 4, 2013.



ROY B. DALTON JR.
United States District Judge

Copies:

Counsel of Record